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Abstract

Socio-legal status, determines the differential rights to residence, work and social welfare that accrue to migrants depending on their particular immigration status. This paper presents analysis of original empirical data generated in qualitative interviews with migrants who had both made a claim for asylum and experienced conditions of forced labour in the UK. Following an outline of the divergent socio-legal statuses assigned to individual migrants within the asylum system, early discussions in the paper offer a summary of key aspects and indicators of forced labour. Subsequent sections highlight the significance of socio-legal status in constructing such migrants as inherently vulnerable to severe exploitation. It is concluded that immigration policy, and more particularly, the differential socio-legal statuses that it structures at various stages of the asylum process, helps to create the conditions in which severe exploitation and forced labour are likely to flourish among asylum seekers and refugees in the UK.

Key words

Forced labour, socio-legal status, asylum seekers, refugees

Introduction

Whilst there is nothing inherently problematic about international migration, the continuing importance of nation states in defining rules governing entry and residence to their territories dictate that that movement across international borders, for whatever purpose, has significant consequences for many migrants. In the UK, the denial or removal of basic rights, in order to deter or limit immigration, is an enduring feature of policy enthusiastically endorsed by recent governments irrespective of their political affiliations (Morris, 2002; Craig, 2007; Stewart and Mulvey, 2014). More widely, European Union policy has been identified as promoting similar outcomes among migrants across Europe (Gubbay, 1999) and there is increasing recognition that that socio-legal status (i.e. the specific rights to residence, work and social welfare derived from the particular immigration status), plays an important role in creating situations which render many migrants vulnerable to forced labour (Anderson and Rogaly, 2005; Skřivánková, 2006; Gordolan and Lalani, 2009; van den Anker, 2009; McKay et al., 2012; Geddes et al., 2013). With migrants from the global South increasingly engaged in ‘precarious’ work in many Western capitalist nations (Standing, 2011), migrant workers routinely offer a cheaper and more compliant alternative to local workers for employers looking to cut labour costs (MacKenzie and Forde, 2009).

This paper considers the role of socio-legal status in facilitating forced labour among migrants who have claimed asylum in the UK. Part one offers an overview of the socio-legal status of various categories, each with differing rights to residence work and welfare, of asylum related migrants. In part two the concept of forced labour is discussed. An overview of the methods used in the study that informs the paper is set out in part three. Drawing directly on qualitative data generated in interviews with asylum seekers and refugees, parts four to six detail the various ways in which socio-legal status helps to facilitate and sustain forced labour among those who claim asylum in the UK. Discussions in part 4 illustrate how current policy forces refused asylum seekers and others without leave to remain in the UK, into destitution and consequently leaves them open to severe exploitation within the labour

market. Many unprincipled employers and agents are happy to make instrumental use of the constrained rights of individual migrants to illegally abuse, coerce and control a vulnerable workforce. In part five the lingering legacy of constrained status and the forced labour experiences it propagates, for those who feel compelled to make use of false papers to secure work is considered. Part six highlights, that, socio-legal status continues to have a negative effect even for those migrants who ultimately receive positive decisions in respect of their asylum claim. For refugees their time spent as asylum seekers, without the right to work, negatively impacts on their ability to access decent paid work moving forwards. Additionally, it is noted that those granted other types of humanitarian leave to remain, aside from refugee status, are more likely to remain working in severely exploitative work due to the specific family reunion regulations attached to their particular status.

Asylum seekers, refugees and socio-legal status

Socio-legal status determines the differential rights and entitlements to residency, work, and welfare that accrue to different migrants depending on their immigration status (Vertovec, 2006; Dwyer et al., 2011).. This results in a situation whereby different migrants who claim asylum experience widely divergent rights, depending on the specific socio-legal status assigned to them at different times within their journey through the UK asylum system. This “stratified system of rights - or civic stratification”, as Morris (2002) terms it, can simultaneously usefully provide an understanding of the diverse rights that migrants are able to access, whilst simultaneously structuring the “apparatus of surveillance and control” (Morris, 2002:410) to which those same migrants are subject.

Within the broad category popularly referred to as asylum seekers and refugees, different socio-legal sub-groups can be identified, each enjoying a differing matrix of basic rights (see figure1¹); a state of affairs that has been influential in forcing significant numbers of asylum seekers and refugees into the informal economy (Düvell and Jordan, 2002; Lewis, 2007).

Figure 1

DEFINITION/STATUS	RIGHT TO RESIDENCE	RIGHT TO WORK	WELFARE RIGHTS
Asylum seeker: a person who has applied for asylum and whose application has not yet been decided	Yes, whilst their application is considered and given due process	No (curtailed since July 2002). Can apply to UKBA for permission to work after 1 year if the delay on their initial claim is not their fault	Basic accommodation and public welfare support (set at 70 % of the social assistance level) under the UKBA asylum support system. Must be destitute and willing to accept no-choice dispersal to a location specified by the UKBA to qualify
Humanitarian protection: a person whose case does not fit the refugee criteria but who is given permission to enter or remain in the UK because they need protection from harm by others	Yes Granted for 5 years in the first instance	Yes	Access welfare rights on the same basis as UK citizens
Discretionary leave: a person given permission to enter or remain in the UK	Yes Granted for up to 3 years in the first	Variable	Access welfare rights on the same basis as UK citizens

who falls outside the Immigration Rules or whose asylum claim has been refused but who cannot be removed on grounds such as ill health or a potential breach of their Human Rights	instance		
Refugee: a person who has received a positive decision on their asylum claim	Yes Since 2005 all refugees whose status is granted in the UK are given 5 years temporary leave to remain; previously they enjoyed indefinite leave to remain.	Yes	Access welfare rights on the same basis as UK citizens
Refused asylum seeker: a person whose asylum claim has been refused	No. Expected to return to their country of origin	No	Not generally entitled to support. Accommodation and public welfare support removed within 21 days of refusal decision. Basic shelter and support may be available in limited circumstances (e.g. unable to leave due to illness/disability , no viable route of return) under Section 4, Immigration and Asylum Act 1999 providing the person is taking all reasonable steps to leave the UK

In recent decades much UK immigration legislation has systematically separated asylum seekers from mainstream welfare provisions and essentially removed their right to work while their asylum claim is assessed. Faced with limited access to highly conditional and minimal benefits some asylum seekers feel compelled to seek alternative means of income often in informal and unregulated sectors of the economy that shield unscrupulous employers; especially if they need to send remittances to families back ‘home’ (Crawley et al., 2011) or to repay debts incurred in migration (O’Connell Davidson, 2013). Additionally, unknown numbersⁱⁱ of refused asylum seekers, remain in the UK. Denied the right to work and with no recourse to public fundsⁱⁱⁱ many become destitute (Dwyer, 2005; Dwyer and Brown, 2005; Smart, 2009; Williams and Kaye, 2010). In common with other irregular migrants, refused asylum seekers are, therefore, likely to have to turn to clandestine work in highly insecure jobs in both the formal and informal labour markets (Düvell and Jordan, 2002; Lewis, 2007, 2009) and may be particularly susceptible to forced labour practices as they try to meet their basic needs (Burnett and Whyte, 2010).

Refugees, and others who receive leave to remain in the UK (including humanitarian protection and discretionary leave, or other discretionary grants), have permission to work and are theoretically able to find employment or receive benefits. However, they experience some of the highest unemployment rates of any group in the UK (Bloch, 2002), and engagement in severely exploitative labour may therefore be the only viable means of supporting themselves. Refugees also face formidable barriers when accessing social security

benefits due to a combination of delays or mistakes in Home Office documentation, limited English language skills, a lack of UK work experience or non-recognition of qualifications attained prior to arrival. (Bloch, 2004; Hurstfield et al., 2004). Highly coercive working arrangements previously entered into out of necessity may continue long after refugee status has been secured. Socio-legal status and the system of limited and stratified individual rights it structures within the asylum process severely limits the options available to many asylum seekers and refugees and renders many vulnerable to forced labour practices.

Defining forced labour

The International Labour Organisation's (ILO) Forced Labour Convention is the most widely ratified international statement that attempts to define forced labour. This identifies "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [sic] voluntarily" (Art. 2 ILO C. 29, 1930) as forced or compulsory labour. Subsequently, the ILO (2005) has revisited two central aspects of its longstanding definition of forced labour. First, the central importance of 'coercive work' extracted under the 'threat of menace' has been highlighted as the vital difference between conditions of forced labour that may be prosecuted through the courts and wider exploitation in the labour market (which is routinely characterised by the failure of employers to act in accordance with prevailing labour laws on wages and working conditions etc.) Second, the issue of a worker's consent, or voluntariness, to undertake the work on offer has been reconsidered. The ensuing statement that, "The extraction of work or services 'under the menace of any penalty' does not mean that some form of penal sanction is applied; the penalty might take the form of a loss of rights or privileges" [our emphasis] (ILO, 2005:20), is highly relevant to this discussion of the role socio-legal status plays in making asylum seekers and refugees vulnerable to forced labour in the UK.

More recently the ILO has consolidated its approach and set out 11 indicators of forced labour: abuse of vulnerability; deception; restriction of movement; isolation; physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions and excessive overtime (ILO, 2012:3). Whilst such indicators are plainly set out, the issue of workers freely consenting to undertake any available work is far less clear. However, it needs to be acknowledged, that the ILO's focus is to establish guidelines on forced labour and trafficking specifically for the purpose of law enforcement and legislative action. Nonetheless, its deliberations have resonance when considering the highly constrained choices available to many migrants, including asylum seekers and refugees, who in the absence of rights to 'legal' residence, work or welfare, have few options other than entering into highly exploitative working arrangements in the informal economy in order to meet their basic needs. Vulnerability, defined by the ILO as, "any situation in which the person involved has no real and acceptable alternative to submit to the abuse involved" (ILO, 2005 :21) is seen as a key factor in facilitating forced labour. The complex 'hierarchy of vulnerability' (Gubbay, 1999) that socio-legal status constructs and promotes, as part of wider UK immigration policy is, therefore, clearly central to migrants' susceptibility to forced labour.

The links between trafficking and forced labour are well established (van den Anker, 2009). That said, recent work has critically engaged with how forced labour has been narrowly defined and conceptualised, and to some extent, decoupled from broader debates about exploitation and the wider paid labour market (Lerche, 2007; Kagan et al., 2011). Whilst a narrow definition of forced labour can be defended when the primary purpose is enforcement,

Skřivánková, argues that “the reality of forced labour is not a static one, but a continuum of experiences and situations” (2010: 4). This notion of ‘a continuum’ and parallel discussions that recognise that exploitative working relationships are far from static and may deteriorate or improve (see Anderson and Rogaly, 2005; Authors, 2013; Phillips, 2011), as a migrants’ socio-legal status and personal circumstances change over time, perhaps more accurately reflects the diverse and routine experiences of forced labour among those we interviewed (Authors, 2014).

Methods

Due to the hidden nature of the topic under exploration the study utilised a qualitative approach. A range of ethnographic outreach techniques were used to negotiate access to, and build trust with, potential respondents. A purposive, non-random sampling strategy was used to identify individuals who had made a claim for asylum in the UK and had experiences of forced labour that met at least one of six ILO indicators (2005). Subsequently, 30 in depth, interviews were conducted in 2011/12 with migrants who had a residential link to the Yorkshire and Humber region of England, UK. The sample covered a diverse range of statuses including, asylum seekers, refused asylum seekers, individuals granted humanitarian protection status, discretionary leave to remain and refugee status. Seventeen respondents had claimed asylum within hours or days of entering the UK. A further seven initially entered the UK on various, valid visitor/spouse/student or work visas and subsequently became irregular migrants without documentation as their visas expired. Additionally, six migrants were trafficked into the UK. Those respondents who fell into irregular status, or who had been trafficked, usually claimed asylum months, or even years, after arrival in the UK in an attempt to escape situations of forced labour and/or to regularise their immigration their status. The sample included 12 women and 18 men, aged between 21 and 58 years who identified 17 nations in Africa, the Middle East, Central Europe and South and Central Asia as their countries of origin.

Ethical considerations were paramount as the project involved working with vulnerable individuals. Two principles, informed consent and anonymity, underpinned the fieldwork. Before any interview took place all potential respondents were provided with a full explanation of the research, given the opportunity to ask questions and made aware of their right to withdraw from the study at any time. Consent was revisited on completion of each interview to allow individuals to reflect on what they wanted to share and respondents choose a pseudonym for use in subsequent outputs. All migrants received £20 as a thank you for their participation. Interviews were conducted in places convenient for respondents including; homes, support agencies’ offices and cafés. Experienced and appropriate interpreters were used as requested by respondents.

Interviews were audio recorded, translated where necessary, and transcribed in English. Identifying characteristics such as place names and specific nationalities were removed from the data. Initially, transcripts were analysed using a thematic coding approach (Mason, 2002; Ritchie et al., 2003) with broad themes derived from the project aims and research questions. Coding was then refined and developed as new themes emerged from the transcripts. An inductive approach (involving moving between transcripts and coding frame), was utilised to critically interrogate the appropriateness of coding structures and preserve the integrity of the original transcripts. Detailed individual biographical timelines which enabled in-depth analysis of key events and junctures in migrants’ immigration and asylum system journeys and work histories relating to indicators of forced labour and ‘unfreedom’ were then

constructed. For a fuller outline of the methods used in the study, summary tables of respondents' circumstances and further discussions of individual migrants' experiences of entry into the UK, the asylum system and situations of forced labour please refer to Authors (2014). Discussions in the subsequent sections of the paper present an analysis of qualitative data generated in interviews with asylum seekers and refugees to outline how socio-legal status facilitates forced labour among asylum seekers and refugees in the UK.

Socio-legal status: the structured destitution of refused asylum seekers and 'irregular' migrants

In helping to create the conditions that lead into destitution for some, socio-legal status is an important factor in compelling many refused asylum seekers and irregular migrants to search for, and undertake, severely exploitative work. It also provides a powerful tool for unscrupulous employers to coerce and control vulnerable migrants in the workplace even when positive changes in status may have secured an individual's rights to residence, legal work and welfare benefits.

The voluntary return or enforced deportation of refused asylum seekers have long been cornerstones of UK immigration policy. However, at times, the UK authorities are unable to return individuals whose asylum claim has been refused to their country of origin because foreign governments refuse to provide appropriate travel papers or cooperate with removals (McIntyre and Mogire, 2012). Additionally, UK authorities lose track of a significant and unknown number of asylum seekers who, on receipt of a refusal notice disappear into the shadows of British society rather than face the prospect of returning to their country of origin. The destitution that refusal triggers has been well documented and remains an on-going issue that successive UK governments have failed to address (Dwyer and Brown, 2005; Amnesty International UK, 2006; Lewis, 2007, 2009; British Red Cross, 2010). Nineteen of thirty migrants spoke of their claim for asylum being refused at some point, with destitution a widespread outcome.

'We are going to make an arrangement for your deportation,' The stress actually was rising and because they mentioned [in] the letter, you leave the house, from this time. I say, 'Oh my god where am I going'... I went to the train station, I sleep there. It was November, very, very cold and it's snowing and I didn't have no blanket at all. I wanted to commit suicide, yes, I wanted to kill myself because I didn't know what to do. What to do. To return back, I think, war is the worst, it will kill me anyway, even be tortured badly. Better to drink something to die. (Pascual)

Caught 'between a rock and a hard place' (see McIntyre and Mogire, 2012), refused asylum seekers were clear that refusal, and the attendant loss of basic rights and the destitution that it triggers left them with few options other than entering into 'illegal' work under conditions of severe exploitation and/or forced labour.

I had to work to stay alive I didn't have an alternative choice...they were telling me that I didn't have work permission I said yes, I didn't have work permission but I had right to live, anybody with no work permission, should they die?' (Parviz)

I been to appeal, and they refuse...my friend just give a place for live, you know - for sleeping, eating...I don't have support this country, I don't have a document for job...I doing so many job. I working in car wash, in building job, in take away, in pet shop. I doing anything because what can I do? I don't have any support... I need the money

because if I want to take a solicitor you know they need the money, I don't have the money, and I don't have anyone. (Siamak)

The stark choice between destitution or forced labour was not solely confined to those whose asylum claim had been refused, it was a dilemma similarly faced by those with irregular immigration status. Irregular migrants (sometimes referred to as undocumented or 'illegal' migrants)^{iv} are people who enter or remain in a destination country without legal permission from the state (Valentine, 2010). Although irregular entry is a factor, the majority of irregular migrants initially enter a state's territory legally and fall into irregularity after overstaying or having their visa withdrawn by the authorities (Migration Work/MRN, 2009). This was the case for six respondents who initially entered the UK on a variety of visas and then subsequently lodged an asylum claim after variable periods of time spent living as an irregular migrants due to overstaying or having their visa nullified. In common with those whose claim to asylum had previously been refused they lacked rights to residence, work or welfare and were likewise highly susceptible to forced labour and extreme exploitation in the informal economy.

Tino and Angel entered the UK on student visas. On completion of his degree Tino started paid work then subsequently moved to a better paying job, becoming irregular when his employers failed to process a new visa application. Angel fell victim to circumstances beyond her control when the Home Office shut down the institution at which she had enrolled and withdrew her visa. Initially, Angel seriously considered returning home but this was not possible as her decision to migrate was also motivated by a desire to escape domestic abuse at the hands of a partner who continued to threaten both her, and her family, back home. She quickly realised that unauthorised, highly exploitative work was her only viable option, especially as she was paying a solicitor in an attempt to regularise her status. In dire straits she was 'befriended' by a businessman who she approached for help. He advised her to drop her attempt to resolve her immigration status via the courts and suggested instead that she became an 'illegal' and worked at his hotel. Whilst visiting the hotel she learned that he had made sexual advances to other young women he 'employed' there, and became suspicious of his motives. That evening he got her to drink alcohol for the first time and took her to a room where she passed out. Unable to recall the events of the previous night and fearing she had been drugged and sexually assaulted, Angel refused his 'job' offer and quickly left. Subsequently, worn down by her desolate situation, she attempted suicide. Years of uncertainty, exploitation and destitution left her isolated, ill and confused.

I have no family, nobody. If I wear different dirty trouser, I wear different top, I don't comb my hair sometimes. I go out sometimes and people laugh...My doctor said maybe you had lot of stress...doctor sent to mental health service. Cos I said to my doctor sometimes I just lost my brain, like sometimes no work, like cos I been this situation...five years since I came over, I have one problem, other problem, one problem, other problem, I have no support. (Angel)

Like Angel, others also resisted looking for unauthorised work fearing that detection could damage their on-going attempts to secure leave to remain in the UK, but ultimately the absence of other viable means of survival, forced many into accepting highly exploitative work as a non-negotiable necessity. For those who were homeless, work, even under conditions of forced labour, might open up access to some sustenance and basic accommodation. For others, dependent upon the charitable support of fellow migrants, entering such work offered the possibility of being able to partially recompense those

providing shelter; many of whom were only marginally better off than those they were assisting.

The Home Office refused me financial support and also my accommodation... At this stage, I was staying with this friend but there were all these things that needed to be paid, *food, electricity, rent, council tax, everything...* So I made a decision that I had to find work to sort of assist with these payments. (Asanne)

Although the need to enter forced labour in order to escape destitution may be viewed by some as qualitatively different from Asanne's decision to enter severely exploitative work to help pay his way, both are indicative of the 'varieties of unfreedom' (O'Neill, 2011) that flow from constrained socio-legal status and make forced labour more, rather than less, likely to occur among migrants who lack access to basic social rights, including the right to work.

Coercion and control: *employers'* instrumental use of socio-legal status

Socio-legal status plays a direct role in establishing situations in the workplace that facilitate the continuation of forced labour among vulnerable migrant populations. Employers were keen to exploit a pool of cheap, disposable labour and use the threat of denunciation to the authorities to control and discipline workers with few alternatives. Those unable, or unwilling, to comply were easily replaced. Jay, a refused asylum seeker, spoke of employers and overseers acting with impunity.

A big bloke who used to drive the van, if you complain, you get one slap... I was scared of the immigration and the police... He say to me 'You are a foreigner, there is nothing you can do here.' What will I say? If I don't work and pay my accommodation I'm going to end up living in the streets. (Jay)

Employers were keen to manipulate the vulnerability of those unable to legally work. Respondents stated that their exploitation was intrinsically linked to their lack of basic rights. One compared the contemporary situation in England to slavery in previous eras. He was angered by both employers' brazen manipulation of irregular migrant workers and the apparent indifference of wider British society.

You say to European you are an asylum seeker, they don't look at you like a normal person. You are savage, you are nothing like a human, they are not going to speak even with you...Before Great Britain went to India, Africa and brought here slaves by force - the gun, now the policy has changed... They go the slaves way, as before, but without the force... If I have a shop and I have three illegal workers my work is sweeping the floor, washing the dishes, kind of job that English people don't like to do...I'm illegal, instead of paying me £6.50 an hour, you know they are going to give me £3, then the cost of that shop, it's come down. And that shop can give you a cheaper food - that's good for this society. That's the slavery of this country. (Alex)

The threat of denunciation and deportation operated in both direct and indirect ways as a disciplining device in exploitative working relations. Beyond the threat of violent punishment, the fear of an employer informing the authorities, and the wider ramifications that this would have, was an omnipresent feature of respondents' daily life. Given their 'illegal' status migrants were acutely aware of their limited power to challenge employers and were resigned to the fact that they were unable to approach the authorities to secure unpaid wages or better working conditions. Systematic abuse of migrants' compromised status by coercive employers was routinely reported by respondents. This included assigning those without rights to residence and employment to the worst tasks, forcing individuals to

work long hours after other employees had left and the withholding of meagre wages. Many described situations in which their employers deliberately took on migrant workers ‘without papers’, at rates well below the minimum wage, safe in the knowledge that they would never be held to account.

This guy only actually recruits people with no papers... He knows that, even if he *doesn't pay you, there's nothing you can do, you can't run to the police...* Every Friday there was a new story, a new excuse... *'Because you haven't worked hard enough I haven't sold anything... I can't get any money out the bank'*. (Asanne)

They said if you got papers for staying in the UK we can pay you more... He dishwasher, I dishwasher, same... *I said 'Please this is not humanity, I'm working £20, he's working £80'*. But they said *no, 'If you want £20, if you don't want, you can go'...* More and more work. Because they know that you have got no paper that you are not allowed to [work], and if you are not working, you got no money you got nowhere to stay. (Mohammed)

Violence, intimidation, withholding of wages, abusive working conditions and the exploitation of migrant workers' vulnerability (routinely the outcome of an individual's socio-legal status), are indicators of forced labour recognised by the ILO (2005, 2012). Although these practices elicited much anger and resentment among respondents they were viewed as an inevitable part of working life.

The instrumental use of status was not solely restricted to corrupt employers. Both Ivy and Lydia detailed how the family members who had trafficked them into the UK, used the ongoing ‘illegality’ of their presence and the ever present threat of deportation, to maintain their ongoing domestic servitude.

Sometimes if someone be nice to me I say everything ok, everything is fine, I never talk because that threat is stuck in my heart they told me that if I tell somebody of the way that I enter the UK and I live inside the UK without no passport the police would come and take me away. (Ivy)

When Lydia realised that she was being duped by her cousin, who was receiving a substantial weekly wage for the care she provided to an elderly man, she was initially too scared to confront him. After several years without pay, she plucked up the courage to enquire about her wages. Her cousin responded by pointing out that she had no legal right to remain in the UK and used the direct threat of deportation back to a homeland, where she had previously been imprisoned and tortured, to ensure her future silence and subservience.

They kept threatening me... *'You are making things worse for you. If the police ever find you they will just put you on a plane and send you back home and you would start suffering again.'* (Lydia)

As Sigona (2012) notes, the omnipresent fear of disclosure has a wider, more indirect impact on the lives of migrants who are living and working in a host state without the required permission. Status is not for discussion, few can be trusted and the potential for supportive personal relationships or the development of wider networks of support is severely constrained. Although fellow migrants and co-workers often share a common precariousness, isolation and a pressing need to protect personal security dominates lives. Compromised immigration status, necessitates silence whenever possible, encourages submissive obedience among marginalised migrant workers and allows unscrupulous employers and working practices to flourish. Status was a taboo topic; *“When we worked together we never got to a point of discussing such things cos it was like a sensitive issue that you couldn't”* (Gojo).

Socio-legal status and associated constrained or non-existent rights to residence, work and welfare thus operate, both directly (in the case of employers making open threats to denunciate workers to immigration authorities), but also indirectly to discipline workers by closing down their ability to challenge or exit workplaces routinely characterised by forced labour practices. The latter form of disciplinary power, generated by a set of generalised fears associated with immigration status irregularity, is an insidious force in the working lives of undocumented migrant workers, including those refused asylum. Putting your head above the parapet and attempting to challenge the wider injustice of the system is not to be recommended. This was graphically illustrated when one of our respondents was arrested after taking part in a television programme about the poor state of asylum accommodation. Another worker recognised her on the television and alerted the authorities.

The dilemma of false papers and the legacy of ‘illegality’

Policies which effectively promote officially sanctioned destitution for some, and minimal rights for others, significantly restricted many respondents’ ability to support themselves. However, limited individual agency remains possible even in highly constrained circumstances. Arguably, current policy encourages the criminalisation of asylum seekers and refugees and stimulates an environment in which fraudulent papers, fake identities and shared national insurance numbers are used by some in order to access paid work to survive. More striking, however, is that others actively chose to resist the pressures they faced and refused to use false documents. Although fear of discovery with its attendant consequences informed decisions to avoid obtaining forged papers, those who resisted assuming false identities made a clear distinction between the necessity to undertake clandestine work to survive and actively assuming a fraudulent identity. Gregory’s story provides insight into the dilemmas individuals had to resolve when deciding whether or not to obtain false papers. From the outset of his asylum claim, Gregory found reliance on asylum support problematic. He did not get on well with the people he was housed with and was frustrated by the subsistence level financial support he received. Above all he wanted the right to work in order to support himself and his disabled mother living abroad. However, he had no desire to jeopardise his asylum claim and, initially, reluctantly accepted his situation. Becoming increasingly exasperated, he repeatedly applied for, and was refused, permission to work. After seven years, “*living in limbo*” reliant on intermittent Section 4 support, he felt compelled to act. Believing his only options were to steal, work or starve. He refused to steal, viewing it as morally wrong, but was not prepared to starve and decided to work without valid papers; a decision he justified as fair because it was the only remaining viable alternative.

Others decided to act differently and several respondents acquired false papers in an attempt to escape severely exploitative work, sometimes with dire consequences. Given the financial costs involved and the potentially catastrophic outcomes of being caught working with false documentation such decisions were not taken lightly. Pascual, who spent a decade as a refused asylum seeker, was convicted for working using fake papers and sentenced to six months in prison. Gojo and Dedem were also subject to criminal convictions for unauthorised work using false documents. Their subsequent criminalisation had a long-term negative impact on their future employment prospects.

That’s when I got caught that’s when they arrested me... I have been to court with this case which is a mark that was left in my life... even though now I’ve got my status... I’ve applied to [lists five mainstream employers] but they wouldn’t take me... I worked illegally before I got my status and now I’ve got my status and it shows... it’s because

I've used the false identity to gain the job... That's what they've said. So this act and the word that they put that fraud, it's something that just says, well we can't take her.
(Gojo)

Unspent convictions for illegal working continue to blight the future lives of asylum seekers who subsequently acquire rights to residence and work. The legacy of highly coercive 'illegal' working arrangements previously entered into out of necessity continues long after refugee status or other rights to remain have subsequently been secured (Refugee Action, 2006; Goldring and Landolt, 2011).

Beyond destitution: the subtleties of status for those with rights to work

Discussions so far have largely focused on how socio-legal status forces refused asylum seekers and other irregular migrants into exploitative work and/or conditions of forced labour due to a lack of any tangible, acceptable alternatives. How then does socio-legal status and forced labour feature in the lives of those who experience more positive outcomes to their asylum claims? Whilst a positive outcome to an individual's asylum claim removes any immediate fears related to residency and removal, it does not necessarily bring an immediate resolution to problems related to work or welfare. One important negative effect of the establishment of a separate system of welfare support for asylum seekers is that positive resolution of asylum claims and any subsequent transition in socio-legal status (e.g. to refugee, humanitarian protection, or discretionary leave status) can render individuals susceptible to homelessness and poverty. This is due to a number of overlapping factors including poor co-ordination between asylum accommodation and mainstream housing providers and a general shortage of available social housing. In addition, research has shown that, at times, social security and employment support agencies are not responsive to the particular needs of refugees (Dwyer, 2009; Shutes, 2011) and refugees experience high levels of unemployment and disadvantage in the labour market (Bloch, 2004; 2008).

Despite having refugee status, Mehran, who had previously faced violent bullying whilst at work, spoke of language barriers and illness continuing to limit his work opportunities. Hussein, an asylum seeker who somehow, for reasons that were not easily discernible, had managed to obtain permission to work from the Home Office whilst his asylum claim was processed, sought out many different jobs through community networks. However, he refused to work for multiple employers who, viewing him simply as an 'asylum seeker', attempted to get him to work for little or no pay. Indeed, all those respondents who had received leave to remain had failed to find secure long-term employment and moved between periods of unemployment and highly casualised, insecure and low paid, low-skilled work. In cases such as these, the fact that those who wish to exploit and dominate cheap, migrant labour commonly either do not understand, or choose to disregard, the subtleties of an individual's status, does not render socio-legal status irrelevant to those who, in time, secure leave to remain and/or the right to work. The stratification of rights, that socio-legal status engenders within asylum policy, helps to create the broader labour market conditions in which all those who have passed through the asylum system, regardless of outcome, are regularly viewed by certain ruthless employers as members of a highly exploitable, low cost and expendable workforce.

Wider familial expectations and responsibilities and the necessity to remit money home were also important factors in explaining why those who were no longer destitute and/or who had secured permission to work continued to be susceptible to forced labour. For example, Rose's initial entry into highly exploitative work was triggered by refusal of her claim for asylum

and an ensuing period of destitution. Some years later, she was subsequently granted leave to remain in the UK. Nonetheless, “*getting papers*” (i.e. getting leave to remain with an associated right to work in the UK) did not resolve the workplace issues she faced. The persistent requirement of having to send remittances abroad to cover the school fees of her three children - “*whatever I can afford for school fees. I have to send money... Hundreds of course, I’ve got three children they all in secondary schools*” (Rose), - whilst simultaneously attempting to save the money required to activate her UK family reunion rights, necessitated her continued employment in overtly exploitative care work, where she went months without getting paid. She was not an isolated case.

The material and bureaucratic conditionality of UK family reunification rules further intensified the pressure others felt under to remain in jobs characterised by conditions of forced labour. Unlike those with refugee status, individuals granted Humanitarian Protection, Discretionary Leave, ‘Case Resolution’ or Indefinite Leave to Remain, are not able to access legal aid or support with family reunion costs. They must also further demonstrate they have sufficient finances to sponsor joining family members and provide adequate accommodation for them.^v This need to save thousands of pounds also led Gojo and Muedinto, to remain in extremely exploitative work where wages were withheld and excessive overtime non-negotiable. For example, Muedinto’s part time cleaning job was not enough to enable him to support his family by sending remittances whilst also trying to save up to meet the costs of family reunion. He, therefore, took a second job in a hotel kitchen and regularly worked overtime, for which he was not paid because his manager was adjusting time sheets to underpay him. “*I was complaining, but no one was really listening to me*” (Muedinto). Despite this treatment, because of a lack of alternative employment opportunities he felt compelled to remain in the job for months so he could continue to draw his basic wages, “*in order to have some money to bring family here*”.

Most migrants, whose claim for asylum is ultimately successful routinely continue to face formidable, and well documented barriers when attempting to secure decent work (see e.g. Bloch 2004). Refugees and the majority of those granted other types of leave to remain in the UK often share common rights to work and regularly also face similar struggles to both adequately maintain themselves in the UK and, simultaneously, support other family members located overseas by sending remittances. However, the necessity of having to meet the onerous financial requirements of family reunion rules is an additional burden faced by those who fail to secure refugee status but who are, nonetheless, granted rights to reside and work on various humanitarian grounds. Here, the subtleties of socio-legal status in respect of differing family reunion rights continue to structure the employment choices of those who are not officially classified as ‘refugees’. For such migrants continuing to engage in highly exploitative work represents perhaps the most viable option of meeting their ambitions to reunite their families in the UK. However, even among those migrants who are fortunate enough to be granted refugee status, it remains the case that many continue to be enmeshed in highly exploitative working arrangements due to the long-term and lingering, negative impact that previous precarious immigration status has on such migrants’ opportunities to improve their labour market situations (Goldring and Landolt, 2011).

Conclusions

The stratified system of socio-legal status that defines and limits the differential entitlements to residence, work and welfare that are variously available to different migrants within the

UK asylum system renders many vulnerable to highly exploitative working arrangements and/or forced labour. As Shelley notes, ‘with opportunities for legal employment closed down and welfare limited to pitiful amounts, little wonder some asylum seekers start unauthorised working’ (2007: 145-6). Lacking substantive basic rights, refused asylum seekers and other irregular migrants are routinely ‘compelled by necessity’ (O’Neill, 2011) to undertake unauthorised work in order to survive. Accepting even the most exploitative kind of work becomes a non-negotiable need in the face of policies that sanction enforced destitution of significant numbers those who remain in the UK. The boundary between coercion and consent, becomes particularly blurred when entry into severely exploitative or forced labour is the only viable survival option. Furthermore, employers or recruiters routinely instrumentally use migrants’ compromised socio-legal status to impose substandard working conditions, particularly on those working without permission.

Socio-legal status and the denial of rights it determines provides unscrupulous employers with the means to threaten and coerce a workforce with a limited or non-existent understanding of acceptable UK working practices into subservience. Whenever, marginalised migrant workers attempted to negotiate improved terms and conditions employers deliberately used immigration status to deny improvements or to withhold pay. One of the most prevalent ways in which respondents’ vulnerability was abused was through employers using the knowledge that they lacked rights, (for example, the right to work as asylum seekers, or the right to remain in the UK due to being undocumented or refused asylum), to impose conditions of forced labour.

Additionally, the legacy of constrained socio-legal status and the criminalisation of those asylum seekers and refugees prosecuted for illegal working continues to blight the lives of many, even when rights to residence, work and welfare are ultimately acquired. For refugees and others granted leave to remain, severely exploitative work may continue to be the only viable means of supplementing the meagre incomes they are able to access through the increasingly conditional and constrained UK benefits system. A positive outcome to an asylum claim does not immediately resolve on-going issues of work and welfare, especially in cases where individuals are trying to meet their wider responsibilities and support family members in their countries of origin by sending remittances home or meet the costs associated with family reunion. In such circumstances, serious exploitation by unscrupulous employers and forced labour remain real possibilities (Katungi et al., 2006) even for those who have secured leave to remain and the right to work. As Goldring and Landolt note,

Intersections of legal status and work establish pathways or tracks that are difficult to jump over or move out of. A shift to more secure legal status may not necessarily be accompanied by a reduction in job precarity (2011: 337-338).

The status of individual migrants does not remain static but changes as personal migration biographies, individual situations and experiences of the asylum process differentially unfold. However, current UK immigration policy, and in particular the differential socio-legal statuses that restrict access to basic rights to residence, work and welfare at various stages of the asylum process, helps to create the conditions in which severe exploitation and forced labour are able and likely to flourish among asylum seekers and refugees.

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ⁱ For practical sampling purposes in our study individuals with other types of leave to remain e.g. Humanitarian Protection and Discretionary Leave and Exceptional Leave to Remain were incorporated into a single group entitled ‘refugees’. However, as discussions in part six illustrate, differences in the specific regulations attached to family reunion rights granted to Refugees, as opposed to other types of humanitarian leave to remain, are likely to render those without refugee status vulnerable to severely exploitative working practices.

ⁱⁱ Estimates vary considerably. The Refugee Council (2007) estimated that in excess of 100, 000 refused asylum seekers remained in the UK. More recently, the think tank Migration Watch UK cites a figure of 250,000.

ⁱⁱⁱ Under Section 4 of the Immigration and Asylum Act 1999 the Home Office may grant destitute asylum seekers who agree to take reasonable steps to leave the UK, minimal ‘hardcase’ support.

^{iv} The term irregular is preferred here. See Anderson (2007) for a discussion of illegality and the complexities of compliance with immigration rules and controls.

^v It should be noted that conditions for family unification apply to all legal statuses, including British citizens, with the exception of EEA workers exercising free movement. For an insight into the complexities of the financial requirements of the UK Immigration Rules in this area see Home Office (2015).